

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: OCT 14 1986

b

[REDACTED]

Person to Contact:

[REDACTED]

Contact Telephone Number:

[REDACTED]

Refer Reply to:

[REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under Chapter [REDACTED] of the [REDACTED] as a Not-For-Profit corporation.

The purposes for which the corporation was formed are as follows:

Exclusively for civic and moral purposes, to improve the physical aspects of the environment and to establish and maintain recreational programs and activities, within the meaning of [REDACTED] as amended, and of Section 501(c)(7) of the Internal Revenue Code of 1954, as from time to time amended, and more particularly, for the purpose of maintaining and preserving the character and physical environment of [REDACTED] residential development so that it will remain a desirable and aesthetically pleasing place in which to live, to develop community spirit among the residents of [REDACTED] Estates and to enhance the general welfare of the residents by promoting moral responsibility among the members, to build and maintain residences which will be a credit to [REDACTED] and to do all things necessary and incidental to those purposes, including the acquisition of land and the right to maintain property designated as common areas.

Form 1024 indicates that activities consist of landscaping common areas at the entrance of the [REDACTED] housing development to make the areas more attractive and safer by increasing visibility. Proposed activities include developing common areas of the development bordering on a lake for the purposes of boating and fishing. Financial statements for [REDACTED] and [REDACTED] indicate revenue is derived from membership dues and small amounts of bank interest. Expenses consist largely of attorney's fees, landscaping, and land surveys.

Per your bylaws, membership in the organization is "limited and restricted to owners of property in the [REDACTED] area of [REDACTED], [REDACTED]." The bylaws also state that, "membership in the association shall cease on the date of the conveyance of all property in [REDACTED] by the member."

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Revenue Ruling 75-494 1975-2 C.B. 214 held that a club providing social and recreational facilities, whose membership is limited to the homeowners of a housing development will be precluded from qualifying for exemption under section 501(c)(7) if it owns and maintains residential streets or if it administers and enforces covenants for preserving the architecture and appearance of the housing development.

As in Revenue Ruling 75-494, your organization carries on activities which, as a major part of its overall activities, are not considered social and recreational within the meaning of section 501(c)(7).

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

Consideration was given to the possibility of exemption under section 501(c)(4) of the Code.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof;...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

Revenue Ruling 74-99 also states that a community within the meaning, of Section 501(c)(4) of the Code and regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein.

Consequently, based on the foregoing, we have determined that you fail to qualify for exempt status under Section 501(c)(4) of the Code.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

7S7 [REDACTED]

District Director

Enclosure: Publication 892